

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Mar 29, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

-vs-

ELICEO FARIAS-CARDENAS,  
Defendant.

No. 2:19-CR-0111-WFN-18

ORDER DENYING MOTION FOR  
REDUCED SENTENCE

Pending before the Court is Defendant's *pro se* Motion for Reduction of Sentence. ECF No. 1119. The parties agree he has exhausted his claim with the Bureau of Prisons [BOP].

Defendant must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). As Defendant doesn't qualify for § 3582(c)(1)(A)(ii), he must demonstrate that extraordinary and compelling reasons warrant reduction.

Defendant has not demonstrated extraordinary or compelling reasons warranting a sentence reduction. Though Defendant details serious health issues, some of which put him at increased risk of serious disease or death were he to contract COVID-19, he presents no information not known to the Court at the time of sentencing in support of compassionate release. Cognizant of Defendant's age and health issues the Court imposed a sentence during the pandemic below the guideline range citing age and physical conditions as reasons that the Court varied downward. Further, as the Government pointed out, Defendant is vaccinated and boosted which protects him from serious illness.

1 Defendant discusses the conditions of incarceration at length. The Government  
2 correctly notes that a challenge to conditions of incarceration typically should be filed in the  
3 location of the institution; however, Defendant clarified that he addressed the conditions to  
4 explain the heightened risk of COVID-19 infection. Though the Court recognizes that the  
5 Bureau of Prisons' response to the pandemic initially lacked sufficient protection for  
6 inmates, as Defendant notes, the COVID-19 cases in his institution are very low. Presumably  
7 that reflects more successful measures have been taken to curb the spread of the disease.

8 Though Defendant has no criminal history, Defendant's underlying conviction was  
9 serious. His role in the offense and the volume of drugs the conspiracy distributed suggest  
10 he may pose a danger to the community. Defendant has not demonstrated extraordinary or  
11 compelling reasons supporting his release. The Court has reviewed the file and Motion and  
12 is fully informed. Accordingly,

13 **IT IS ORDERED** that Defendant's *pro se* Motion for Reduced Sentence, filed  
14 December 22, 2021, **ECF No. 1119**, is **DENIED**.

15 The District Court Executive is directed to file this Order and provide copies to  
16 counsel **AND TO** *pro se* Defendant .

17 **DATED** this 29th day of March, 2022.

18 

19 \_\_\_\_\_  
WM. FREMMING NIELSEN  
20 SENIOR UNITED STATES DISTRICT JUDGE

21 03-23-22